



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/636,731	08/10/2000	Jerry Thomas Moore	9283/001	9120

24283 7590 04/23/2003

PATTON BOGGS
PO BOX 270930
LOUISVILLE, CO 80027

EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
----------	--------------

3643

DATE MAILED: 04/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/636,731	Applicant(s) MOORE
	Examiner KURT ROWAN	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Feb 6, 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-21, 23-25, 40, and 41 is/are pending in the application.

4a) Of the above, claim(s) 19-21 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-18, 23-25, 40, and 41 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892)

4) Interview Summary (PTO-413) Paper No(s). _____

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____

6) Other: _____

Art Unit: 3643

DETAILED ACTION

Claim Rejections - 35 U.S.C. § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-18, 23-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not support the base piece covering less than 50% of the chest of a normal adult.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3, 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 3 recites the limitation "said fishing rod holder" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim. Claim 3 was last amended 11/21/2002. This amendment does not include the "further comprising a fishing rod holder," limitation. Please clarify.

Art Unit: 3643

Claim Rejections - 35 U.S.C. § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3643

7. Claims 1-2, 4, 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wimler in view of Gillespie.

The patent to Wimler shows a chest fly box system having base 6, a harness 7 that secures the base piece to the chest of a fisherman with the base resting on the front of the chest as shown in Figs. 1-2. The base covers less than 50% of the chest. Wimler discloses a hinge in column 1, lines 43-47 that also as a fastener to secure the fly box to the base piece and to permit movement of the fly box from a horizontal to a vertical position as shown in Figs. 1-2. The hinge/fastener can inherently releasably secure a fly box so that it can be accessed without removing it from the base piece. In reference to claim 1, Wimler shows all of the elements recited with the exception of the fastener adapted so that a fly box can be removed from the base piece without using a tool. The patent to Gillespie shows a fly box 56 adapted to be removed from a base piece 36 without using a tool noting Fig. 1 since the fly box and the base have complementary hook and loop fasteners 84. In reference to claim 1, it would have been obvious to provide Wimler with hook and loop fasteners as shown by Gillespie so that the fly box could be removed without using a tool for the purpose of convenience under fishing conditions. In reference to claim 4, Wimler shows all of the dimensions recited. In reference to claim 40, the fly box of Wimler as modified by Gillespie shows a fly box wherein the fastener can be released while all parts of the fastener remain attached to either the fly box or the base piece.

8. Claims 3, 5-6, 23-25, 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Art Unit: 3643

Wimler in view of Gillespie as applied to claim 1 above, and further in view of Hutton. The patents to Wimler, Gillespie, and Hutton show chest fly boxes. Wimler has been discussed above and does not show a fishing rod holder. Hutton shows a fishing rod holder 142 mounted on the fly box support 102 and being configured to hold the fishing rod in a horizontal position. In reference to claims 3, 5, 6, it would have been obvious to provide Wimler as modified by Gillespie with a fishing rod holder as shown by Hutton for the purpose of maintaining the rod while changing tackle such as re-rigging a broken fishing line as disclosed by Hutton in column 4, lines 8-11. In reference to claims 23-24, Hutton shows a bracket rod holding mechanism that can be considered as a U-shaped trough, but it would have been obvious to employ other configurations such as a clamp since the function is the same and no stated problem was solved. In reference to claim 25, the combination of Wimler in view of Gillespie as modified by Hutton shows all of the elements recited with the exception of the fly box support and the fishing rod holder being integrally made. Hutton does not disclose that they are integrally made, but it would have been obvious to integrally form the fly box support and the fishing rod holder. See *In re Larson et al.*, 144 USPQ 347. In reference to claim 41, see the rejection of claim 40, above.

Allowable Subject Matter

9. Claims 7-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and if the rejection under 35 U.S.C. 112, first paragraph is overcome.

Art Unit: 3643

Response to Arguments

10. Applicant's arguments filed Feb. 6, 2003 have been fully considered but they are not persuasive. Applicant argues that the chest fly box is a small device that cover under 50% of a wearer. However, no mention of this number was made in the original disclosure and while Miller shows a fishing tackle container worn on the hip of a user, there is nothing that precludes the tackle container of Miller from being worn on the chest. However, Miller is not an applied reference now. Applicant should therefore delete the 50% limitation. Applicant's response overcomes all the rejections under 35 U.S.C. 112, second paragraph with the exception of claim 3. It appears that claim 3 has not been amended since the response of 11/21/2001. As to claim 4, Wimler shows a horizontal support piece (not labeled, but see Fig. 5) with stops 19 attached. The vertical chest piece and the horizontal support piece form a right angle. The chest plate has an upper edge, a lower edge, a chest-side surface and an outside surface. The support plate has an inner edge, an outer edge, a first side edge and a second side edge, a top surface and a bottom surface. The inner edge of the support plate is contiguous with the lower edge of the chest plate with the widths of the plates being adequate to support a fly box in its vertical closed position. As to Hutton being configured to hold the rod in the horizontal position, sliding the rod handle into the holder 142 parallel to the side wall of the tackle box would result in the rod being a horizontal position. As to claim 5, it would have been obvious to mount the rod holder to either the base piece or the tackle box since the function is the same and no stated problem is solved. In regard

Art Unit: 3643

to claim 23, the rod holder 142 can be considered as a U-shaped trough with inwardly turned mounting points.

11. Applicant's arguments with respect to claims 1 and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

a shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **KURT ROWAN**

Art Unit: 3643

whose telephone number is (703) 308-2321.

The examiner can normally be reached on Monday-Thursday from 6:30 a.m. to 5:00 p.m.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 or (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.



KURT ROWAN

PRIMARY EXAMINER

ART UNIT 3643

April 21, 2003